NORTH CAROLINA FILED)
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COUNTY OF GUILFORD 2007 AUG 27 A 10: 06
GUILFORD COUNTY, C.S.C.
BY MQ

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
07 CVS 8908

ROBERT D. COBB,
Plaintiff,
v.
FOX NEWS NETWORK, LLC
Defendant.

COMPLAINT

(JURY TRIAL DEMANDED)

The Plaintiff, complaining of the Defendant alleges and says:

1. The plaintiff Robert D. Cobb ("Mr. Cobb") is a citizen and resident of Guilford County, North Carolina.

2. The defendant Fox News Network, LLC ("Fox News") is a foreign limited liability company which owns and operates a website at www.foxnews.com.

3. Upon information and belief, the website, much like the cable network operated by Fox News, is viewed by millions worldwide every day.

4. On the morning of June 21, 2007, the defendant's lead story was reported from Wilmington, NC.

5. The story was headlined "40-Year-Old Teacher Marries 16-Year-Old Student."

6. The story was featured as the top story on the front page of Foxnews.com.

7. The front page of Foxnews.com contained a large picture of Mr. Cobb superimposed next to a 16 year old girl, Windy Hager.

8. The photos together make it appear that Windy Hager and Mr. Cobb are in the same location next to each other.

9. The title on the picture on the front page of foxnews.com was "Teacher, Coach, and…Husband."

10. In order to read the full story, readers were directed to click on a link with the title "Does She Call Him Coach?"

11. When the readers clicked on the story, they were directed to an even larger picture of Mr. Cobb.

Dockets.Justia.com

12. Mr. Cobb was previously a teacher in the Guilford County schools.

13. One of his fellow teachers was Brenton Wuchae, the 40 year old teacher who actually married 16-Year-Old Windy Hager in New Hanover County last month.

14. Mr. Cobb is married to another woman, Hannah Cobb, and, despite Fox News' accusations, has never been romantically involved in any way with 16-Year-Old Windy Hager.

15. Mr. Cobb is not a public figure.

16. This story was about an incident in North Carolina. The story was published and directed into the State of North Carolina. The harm was felt most in the State of North Carolina.

17. Upon information and belief, thousands of readers in the State of North Carolina viewed the Plaintiff with the headline "Teacher, Coach...and Husband...Does she call him coach?" and believe that the Plaintiff actually married 16-Year-Old Windy Hager.

18. Upon information, millions of readers around the country and world viewed the Plaintiff with the headline "Teacher, Coach...and Husband...Does she call him coach?" and believe that the Plaintiff married 16-Year-Old Windy Hager.

19. Further, the Fox News' .jpg file still exists containing further disparaging comments about Mr. Cobb on blogs around the internet. It was forseeable that Foxnews lead picture would be copied around the internet.

20. Upon information and belief, many of those readers still are under the impression that Mr. Cobb married this 16-year-old girl.

21. Mr. Cobb does not condone or in any way support the conduct of the real husband, Mr. Wuchae.

22. The defendant purposely published this story as its national lead story because of the extreme and outrageous conduct and the dramatic reaction it would get from the readership and public.

23. The defendant further knew or should have known that this gentleman's alleged conduct would likely be viewed as contemptuous and disgraceful and would potentially subject the person pictured to ridicule, contempt, or disgrace.

24. Further, the accusation against Mr. Cobb, an already married man, was clearly that he had committed adultery or at least had married another woman, a crime in North Carolina.

25. Within hours of the story first existing on the Fox News website, Mr. Cobb began to experience a small amount of the harm which the story was causing and continues to

cause in his life.

26. Upon being directed to the Fox News story that afternoon, Mr. Cobb reviewed the Foxnews.com website and clicked on the "Contact Us" link.

27. At that point, Mr. Cobb discovered a phone number on the website and attempted to contact Fox News.

28. Mr. Cobb was obviously distraught and anxious to correct Fox News and have his picture removed from this story.

29. At that point, Fox News subjected Mr. Cobb to a complicated automated menu program on its telephone system.

30. After several tries, Mr. Cobb was finally successful in completing the maze of automated voice responses and menu options to finally obtain a live person at Fox News.

31. When Mr. Cobb told Fox News about the story, he was laughed at by Fox News.

32. Fox News refused to take the picture off its website saying, "(w)e are leaving it on our site until you can prove that is not you."

33. When Mr. Cobb inquired how he could do that and continued to plead that they take the picture down in the interim, Fox News refused to provide further assistance and dismissed him.

34. At that point, Mr. Cobb was forced to leave his workplace and rush as quickly as possible to the Fox News affiliate in High Point, North Carolina.

35. Eventually, Mr. Cobb's picture was removed from the website.

First Claim for Relief
(Negligence)

36. Plaintiff reincorporates by reference Paragraph 1-35 of the Complaint.

37. Defendant owes a duty of reasonable care with regard to the rights of the public.

38. Defendant breached that duty by negligently obtaining and publishing the picture of the wrong person.

39. When nationally publishing such an extreme story about a nonpublic figure, it is simply negligent not to make sure you are accusing the proper person.

40. Plaintiff suffered damages thereby and is entitled to compensatory damages in excess of $10,000.

Second Claim for Relief
(Punitive Damages)

41. Plaintiff reincorporates by reference Paragraph 1-40 of the Complaint.

42. Defendant owes a duty of reasonable care with regard to the rights of the public.

43. Defendant breached that duty by recklessly obtaining and publishing the picture of the wrong person. Defendant's actions in this context constitute willful and wanton conduct.

44. Upon information and belief, some of defendant's officers or directors participated in this process and publication.

45. When nationally publishing such an extreme story about a nonpublic figure, it is simply reckless, willful and wanton not to make sure you are accusing the proper person.

46. Plaintiff suffered damages thereby and is entitled to compensatory and punitive damages in excess of $10,000.

Third Claim for Relief
(Libel Per Se)

47. Plaintiff reincorporates by reference paragraphs 1-46 of the alleged Complaint.

48. The defendant's false publication subjected the person pictured to ridicule, contempt, and disgrace. It was foreseeable that this would occur.

49. Because the plaintiff was already married, the accusation of another marriage was an accusation that Mr. Cobb's conduct was criminal.

50. Mr. Cobb suffered damages proximately caused by defendant's conduct in an amount to be proven at trial.

51. As a result, plaintiff is entitled to recover compensatory and punitive damages in an amount in excess of $10,000.

WHEREFORE, the Plaintiff prays the Court that he have and recover of the Defendant as follows:

1. Compensatory and punitive damages in excess of $10,000.

2. Interest at the legal rate from date of the filing of this Action.

3. Costs and Attorneys' Fees as permitted by North Carolina law.

4. For such other and further relief as to the Court may seem just and proper.

This the 7th day of August, 2007

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